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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,676	03/25/2004	Patricia Desenne	LOREAL 3.0-015	6218
530	7590	04/10/2006	EXAMINER	
LERNER, DAVID, LITTENBERG, KRUMHOLZ & MENTLIK 600 SOUTH AVENUE WEST WESTFIELD, NJ 07090			ELHILO, EISA B	
			ART UNIT	PAPER NUMBER
			1751	

DATE MAILED: 04/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/808,676

Applicant(s)

DESENNE ET AL.

Examiner

Eisa B. Elhilo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 11/4/2004
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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Claims 1-46 are pending in this application.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1 The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cottard et al. (US' 2001/0023515 A1) in view of Huglin et al. (WO 00/25730).

Cottard et al. (US' 514) teaches a hair dyeing composition comprising oxidation dye such as paraphenylenediamine as claimed in claims 1 and 7 (see page 6, paragraph, 0109), wherein the oxidation dye presents in the amount of 0.0005 to 12% by weight as claimed in claim 8 (see page 8, paragraph, 0155), couplers such as meta-phenylenediamine as claimed in claims 9-10 and 33 (see page 8, paragraph, 0156), wherein the coupler presents in the amount of 0.0001 to 10% which within the claimed range as claimed in claim 11 (see page 8, paragraph, 0158), direct dyes such as anthraquinone dyes in the amounts of 0.01 to 10% by weight which is within the claimed range as claimed in claims 12 and 13 (see page 8, paragraph, 0160), aqueous medium comprises organic solvents such as alkyl ether of diethylene glycol in the amount of 0.5 to 20% by weight as claimed in claims 14-17 and 39 (see page 17, paragraphs, 0334-0336), cationic polymers (conditioning polymers) in the amounts of 0.01 to 10% by weight as claimed in claims 18-20 and 34 (see page 12, paragraphs, 0237-0240), surfactants in the amounts of 0.01 to 40% by weight as claimed in claims 21-23 and 35 (see page 17, paragraph, 0331), amphiphilic polymer of

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hydroxypropylguars modified by at least one group comprising at least one fatty chain (ESAFLOR HM 22) as claimed in claims 24-25 (see page 4, paragraph, 0076), wherein the amphiphilic polymers are present in the amounts of 0.01 to 10% which within the claimed ranges as claimed in claims 26 and 36 (see page 5, paragraph, 0140), thickening polymers such as xanthan gum and scleroglucan gum in the amounts of 0.01 to 10% as claimed in claims 27-29 and 37 (see page 17, paragraphs, 0332-0333), basifying agents such as aqueous ammonia in the amount of 11.1% which within the claimed range as claimed in claims 30-32 and 38 (see page 19, paragraph, 0363), oxidizing agents such as hydrogen peroxide, perborates and peroxides as claimed in claims 40-43 (see page 18, paragraphs, 0349 and 0342), wherein the content of the oxidizing agent is 7.5% which within the claimed range as claimed in claim 44 (see page 19, paragraph, 0362). Cottard et al. (US' 514 A1) also teaches a method and a device for dyeing hair comprising the dyeing composition as described above and wherein the method and the kit are similar to those claimed in claims 45 and 46 (see page 18, paragraph, 00349 and page 2, paragraphs, 0020-0026).

The instant claims differ from the reference by reciting a composition comprising at least one compound of a claimed formula (I).

However, Cottard et al. (US' 514 A1) teaches that the composition may further comprise an effective quantity of other agents that are already known for oxidation coloration (see page 17, paragraph, 0345).

Huglin et al. (WO' 730) in analogous art of hair dyeing formulation, teaches a composition comprising a light stabilizer compounds such as methylglycinediacetic acid of a formula similar to the claimed formula (I) as claimed in claims in claims 1-4 (see page 14,

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formula 72), when in the claimed (I), R' represents a hydrogen atom, R represents $\text{CH}(\text{CH}_3)\text{-CO}_2\text{X}$ and wherein X represents hydrogen atom as claimed and wherein the light stabilizers are present in the amounts of 50 (0.005%) to 1000 (0.1%) ppm which within the claimed ranges as claimed in claims 5 and 6 (see page 24, 2nd paragraph from the bottom). It is further taught by Huglin et al. (WO' 730) that the light stabilizers are used for protecting hair-care product against photolytic degradation (see page 23, lines 1-6 under the table).

Therefore, in view of the teaching of the secondary reference, one having ordinary skill in the art at the time the invention was made would be motivated to modify the composition of Cottard et al. (US' 515 A1) by incorporating the compound methylglycinediacetic acid as taught by Huglin et al. (WO' 730) to arrive at the claimed invention with reasonable expectation of success for protecting the hair against photolytic degradation and would expect such a composition to have similar properties to those claimed, absent unexpected results.

Conclusion

The references listed on from PTO-1449 have been reviewed by the examiner and are considered to be cumulative to or less material than the prior art references relied upon in the rejection above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eisa B. Elhilo whose telephone number is (571) 272-1315. The examiner can normally be reached on M - F (8:00 -5:30) with alternate Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas McGinty can be reached on (571) 272-1029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Eisa Elhilo
Primary Examiner
Art Unit 1751

April 6, 2006